

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

NEFTALI MONTERROSA, individually and
as co-successor-in-interest to Decedent SEAN
MONTERROSA; NORA MONTERROSA,
individually and as co-successor-in-interest to
Decedent SEAN MONTERROSA;
MICHELLE MONTERROSA, individually;
ASHLEY MONTERROSA, individually,

Plaintiff,

vs.

CITY OF VALLEJO, a municipal
corporation; JARRETT TONN, individually,
and, Vallejo police officers DOES 1-25,
inclusive,

Defendants.

Case No: 2:20-cv-01563-TLN-DB

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION TO DISMISS
PURSUANT TO FEDERAL RULE OF
CIVIL PROCEDURE RULE 12(b)(6)
AND GRANTING DEFENDANTS'
MOTION TO STRIKE PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE RULE 12(f)**

Defendants City of Vallejo and Jarrett Tonn's motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) and motion to strike under Federal Rule of Civil Procedure 12(f) came on for hearing in this Court on December 3, 2020 at 2:00 p.m. in Courtroom 2, before the Honorable Troy Nunley, United States District Court Judge. Assistant City Attorneys Meera Bhatt and Katelyn Knight appeared on behalf of Defendants. Attorneys John Burris and Ben Nisenbaum. appeared on behalf of Plaintiffs.

1 Having considered the Defendants' motion to dismiss and motion to strike, the other
2 pleadings and documents on file in this case, arguments or evidence submitted by the parties, the
3 Court finds good cause exists to issue the following orders:

4 1. The Court hereby dismisses the Complaint's third cause of action for Fourteenth
5 Amendment Substantive Due Process – Right to Familial Relationship as to all
6 Defendants without leave to amend.

7 2. The Court hereby dismisses the Complaint's fourth cause of action for First
8 Amendment Right of Association as to Plaintiffs Michelle Monterrosa and Ashley
9 Monterrosa without leave to amend.

10 3. The Court hereby strikes the following sentence from the Prayer on page 15 of the
11 Complaint:

12 "For violation of California Civil Code Sections 52 and 52.1, statutory damages,
13 and reasonable attorney's fees."

14 IT IS SO ORDERED.

15
16 Dated: _____

The Honorable Troy Nunley